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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,083	12/30/2003	Nady E. Nady	5032-103 US	6884

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EXAMINER

AMERSON, LORI BAKER

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/748,083

Applicant(s)

NADY, NADY E.

Examiner

L. Amerson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

a. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Benderev '745. Benderev discloses a shaft (12), a pressures sensitive element (22) and a feedback element (col. 5, line 64 and col. 6, lines 9-15). Regarding the language, ""responsive to pressure applied to the exterior of the pelvic muscle exercise device" and "for providing feedback to the patient responsive to a predetermined threshold of said pressure sensitive element" has not been given patentable weight because the limitation is purely functional and does not recite any structure. As to claim 8, the feedback is vibration (col. 8, line 39

b. Claims 1-5, 8-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Benderev '467. Benderev discloses a shaft (12), a pressures sensitive element and a feedback element (26; col. 8, lines 23-25 and col. 9, line 35). Regarding the language, ""responsive to pressure applied to the exterior of the pelvic muscle exercise device" and "for providing feedback to the patient responsive to a predetermined threshold of said pressure sensitive element" has not been given patentable weight because the limitation is purely functional and does not recite any structure. As to claims 2 and 15, further comprising a

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withdrawal device (58). As to claim 3, a sleeve (20) made from a resilient material [0060]. As to claims 8-9,16, the feedback is vibration (col. 8, line 24).

As to claims 10 and 14, the feedback is outside the vaginal canal (fig. 6).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

c. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benderev '467 as applied to claims 1 above, and further in view of Leiveth.

Benderev discloses all of the limitations of the claimed invention except for a sleeve being replaceable and disposable. Leiveth teaches a sleeve (27) being replaceable and disposable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a replaceable and disposable sleeve for the purpose of providing sanitary conditions to the user while under care.

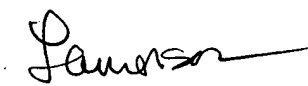
Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971.

The examiner can normally be reached on Mon.-Fri from 9-6 p.m. Interviews Tue. and Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



L. Amerson